

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA

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§
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v.

CRIMINAL NO. 4:07CR58.3

KEVIN DWAYNE THORNE

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 26, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by James Whalen. The Government was represented by James Peacock.

On April 7, 2008, Defendant was sentenced by the Honorable Richard A. Schell, United States District Judge, to a sentence of 30 months imprisonment followed by a 5-year term of supervised release, for the offense of conspiracy to possess with intent to distribute cocaine and cocaine base. Defendant began his term of supervision on October 13, 2009.

On January 12, 2012, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 439). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer

any narcotic or other controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician.

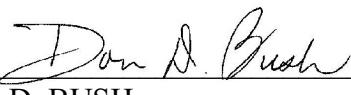
The Petition alleges that Defendant committed the following violations: (1) As previously reported to the Court on November 12, 2010, Defendant was arrested by Garland Police Department, Garland, TX for VHSC - possession marijuana 4oz-5lbs, a state jail felony. He was released on a \$5,000 surety bond; (2) On December 1, 2011, the Dallas County 363rd Judicial District Court issued a warrant for Insufficient Bond, and the defendant was arrested by the Plano Police Department in the U.S. Probation Office on December 29, 2011; and (3) During the arrest, it was discovered the defendant had a baggie of marijuana in his right front pants pocket and \$500. When patting Defendant down, the Plano Police Officer felt a hard object in the crouch area of the defendant's pants. Defendant indicated it was a urine tampering device. He was transported to City of Plano jail. At the jail, it was discovered that Defendant had an additional 19 baggies of marijuana of the same size hidden in the crouch of his pants and did not have a urine tamper device. He is currently being held in Collin County Jail for possession of marijuana - <2 oz. - a Class B Misdemeanor. A \$500 bond has been set.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the April 26, 2012, hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, with no supervised release to follow.

SIGNED this 11th day of May, 2012.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE